IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

VENKATA GHANTA,	§	
	§	
Plaintiff,	§	
	§	
v.	§	**Civil Action No. 3:16-cv-00573-O**
	§	
IMMEDIATE CREDIT RECOVERY, INC.,	§	
	§	
	§	
Defendant.	§	

ORDER

Before the Court are Plaintiff's Motion for Summary Judgment (ECF No. 32) and Brief and Appendix in Support (ECF Nos. 32–33), filed February 16, 2017; Defendant's Response (ECF No. 40), filed March 8, 2017; and Plaintiff's Reply (ECF No. 41), filed March 22, 2017. Also before the Court are Defendant's Motion for Summary Judgment (ECF No. 34) and Brief and Appendix in Support (ECF Nos. 35–36), filed February 16, 2017; Plaintiff's Response (ECF No. 39), filed March 8, 2017; and Defendant's Reply (ECF No. 42), filed March 22, 2017. Having considered the motion, related briefing, and applicable law, the Court finds that Plaintiff's Motion for Summary Judgment (ECF No. 32) should be and is hereby **GRANTED** and Defendant's Motion for Summary Judgment (ECF No. 34) should be and is hereby **DENIED.**

I. BACKGROUND

This action arises from the debt collection practices of Immediate Credit Recovery, Inc. ("Defendant") against Mr. Venkata Ghanta ("Plaintiff"), which Plaintiff claims violated the Fair

Debt Collection Practices Act ("FDCPA") and for which Plaintiff now seeks damages. Pl.'s Compl. 4–5, ECF No. 1. Emory University hired Defendant to collect putative tuition expenses allegedly owed by Plaintiff. *Id.* at 2. Defendant sent initial correspondence to Plaintiff on June 11, 2015, informing Plaintiff that:

> Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt, or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and *mail you a copy of such judgment or verification*.

Id. at 3 (emphasis added). In response, Plaintiff emailed correspondence to Defendant on June 22, 2015, disputing the debt. *Id.* at 3–4; Def.'s Br. Supp. Mot. Summ. J. ("Def.'s Br.") 4, ECF No. 35. Plaintiff sent a second request for debt verification to Defendant via the Consumer Financial Protection Bureau's ("CFPB") online portal on November 9, 2015. Def.'s Br. 4, ECF No. 35. Defendant uploaded a letter to the CFPB portal on November 9, 2015, stating that its client, Emory University, indicated Plaintiff "does in fact owe the balance" and "is responsible for th[e] bill." Def.'s App., Ex. B., ECF No. 35-1.

Defendant reinitiated collection efforts against Plaintiff by sending a collection letter on December 14, 2015. Pl.'s Compl. 4, ECF No. 1; Pl.'s Mot. Summ. J. 6, ECF No. 32. Plaintiff claims that the December letter violates the FDCPA because Defendant failed to mail him verification of the debt before reinitiating collection efforts. *Id.* at ¶ 28. Defendant argues that the letter electronically uploaded to the CFPB portal (the "portal letter") constitutes sufficient debt verification, rendering the subsequent collection efforts lawful. Def.'s Br. 5, ECF No. 35. But Plaintiff claims the portal letter is insufficient to satisfy Defendant's debt verification obligation because it (1) was not mailed to Plaintiff, and (2) does not contain enough information to allow him to sufficiently dispute the debt. Pl.'s Resp. 6–8, ECF No. 39. Both parties moved for summary judgment and the motions are now ripe for review.

II. LEGAL STANDARDS

A. Summary Judgment

Summary judgment is proper when the pleadings and evidence on file show "that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "[T]he substantive law will identify which facts are material." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A genuine dispute as to any material fact exists "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Id.* The movant makes a showing that there is no genuine dispute as to any material fact by informing the court of the basis of its motion and by identifying the portions of the record which reveal there are no genuine material fact issues. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986); Fed. R. Civ. P. 56(c).

When reviewing the evidence on a motion for summary judgment, the court must decide all reasonable doubts and inferences in the light most favorable to the non-movant. *See Walker v. Sears, Roebuck & Co.*, 853 F.2d 355, 358 (5th Cir. 1988). The court cannot make a credibility determination in light of conflicting evidence or competing inferences. *Anderson*, 477 U.S. at 255. As long as there appears to be some support for the disputed allegations such that "reasonable minds could differ as to the import of the evidence," the motion for summary judgment must be denied. *Id.* at 250.

B. Fair Debt Collection Practices Act

The FDCPA was enacted to protect consumers from abusive and deceptive debt collection practices by debt collectors. 15 U.S.C. § 1692(e). The FDCPA covers debt collectors who "regularly collec[t] or attemp[t] to collect, directly or indirectly, debts owed or due or asserted to be owed or due another." 15 U.S.C. § 1692a(6). The FDCPA restricts debt collectors from making false or misleading representations or using unfair collection methods. 15 U.S.C. §§ 1692e, 1692f. The FDCPA also requires debt collectors to provide certain written information to the consumer regarding the debt collection. 15 U.S.C. § 1692g.

The FDCPA provides that if a consumer notifies the debt collector within 30 days of receiving initial communication that the debt, or any portion thereof, is disputed, the debt collector must "cease collection of the debt" until it "obtains verification of the debt . . . and a copy of such verification . . . is mailed to the consumer by the debt collector." 15 U.S.C. § 1692g(b).

To state a claim under the FDCPA, a plaintiff must demonstrate that (1) plaintiff has been the object of collection activity arising from consumer debt; (2) defendant is a debt collector as defined by the FDCPA; and (3) defendant has engaged in an act or omission prohibited by the FDCPA. *Hunsinger v. SKO Brenner American, Inc.*, No. 3:13-CV-0988-D, 2014 WL 1462443, at *3 (N.D. Tex. Apr. 15, 2014) (Fitzwater, J.) (citing *Browne v. Portfolio Recovery Assocs., Inc.*, 2013 WL 871966, at *4 (S.D. Tex. Mar. 7, 2013)). When deciding whether a debt collection letter violates the FDCPA, courts "must evaluate any potential deception in the letter under an unsophisticated or least sophisticated consumer standard . . . assum[ing] that the plaintiff-debtor is neither shrewd nor experienced in dealing with creditors." *Goswami v. Am. Collections Enter., Inc.*, 377 F.3d 488, 495 (5th Cir. 2004) (internal citations omitted).

III. ANALYSIS

The parties do not dispute the first two elements of Plaintiff's FDCPA claim: that Plaintiff has been the object of collection activity arising from consumer debt and Defendant is a debt collector as defined by the FDCPA. The focus is on the third element: whether Defendant has engaged in an act or omission prohibited by the FDCPA—in this case, reinitiating collection efforts without properly verifying the debt and mailing Plaintiff debt verification. The parties also generally agree to the timeline of events—initial communication regarding the debt was sent to Plaintiff by Defendant on June 11, 2015; Plaintiff notified Defendant by email that he disputed the debt on June 22, 2015; Plaintiff notified Defendant by CFPB portal that he disputed the debt on November 9, 2015; Defendant uploaded a letter to the CFPB portal allegedly verifying the debt on November 9, 2015; and Defendant reinitiated collection efforts on December 14, 2015. Pl.'s Compl. 4, ECF No. 1; Def.'s Br. 4, ECF No. 35. The dispute centers on whether Defendant failed to properly verify the disputed debt and mail a copy of the verification to Plaintiff before reinitiating collection efforts—thus violating § 1692g(b) of the FDCPA.

Plaintiff asserts that (1) Defendant never mailed him debt verification as required by the FDCPA; and (2) Defendant never provided him debt verification because the portal letter does not contain enough information to constitute sufficient debt verification. Pl.'s Compl. ¶¶ 28–29, ECF No. 1; Pl.'s Mot. Summ. J. 16–17, ECF No. 32.[1]

---

[1] Defendant argues that Plaintiff failed to plead his second argument—that any attempt to verify the debt through the CFPB portal was insufficient—in his complaint and that it should therefore be ignored by the Court. Def.'s Resp. 3–5, ECF No. 40. But the Court finds the following language in Plaintiff's Complaint sufficiently pleads the second argument: "[o]n or about December 14, 2015, Defendant attempted to collect the Debt from Plaintiff without having first provided Plaintiff with documentation to validate the Debt." Pl.'s Compl. ¶ 29, ECF No. 1. Plaintiff's argument presented in its motion for summary judgment—that Defendant's letter was *insufficient* to constitute debt verification—is not a new legal or factual theory, it

Defendant asserts that (1) Plaintiff lacks standing because he suffered no injury-in-fact; (2) the portal letter constitutes sufficient debt verification; and (3) any FDCPA violation is de minimis because Plaintiff received the portal letter and Defendant complied with the spirit and purpose of the FDCPA. Def.'s Mot. Summ. J. 1, ECF No. 34; Def.'s Br. 8, 11, 13, ECF No. 35.

A. Standing

Defendant first argues that Plaintiff lacks standing to bring his suit because he has not suffered an injury-in-fact sufficient to confer standing. Def.'s Br. 8, ECF No. 35. The party asserting federal jurisdiction must establish the three elements of standing: (1) an "injury in fact" that is a "concrete and particularized . . . invasion of a legally protected interest"; (2) a "causal connection between the injury and the conduct complained of"; and (3) a likelihood that "the injury will be redressed by a favorable decision." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

Defendant points to Plaintiff's deposition as evidence that he suffered no injury from receiving the alleged debt verification letter through the online portal instead of the mail. Def.'s Br. 9, ECF No. 35. Plaintiff stated in his deposition that the mode of debt verification receipt was "irrelevant" and "not significant" to him. Def.'s App., Ex. 2 ("Ghanta Dep.") 26–27, ECF No. 35-1. But Plaintiff argues that the issue is not whether he was harmed by the method of alleged debt verification but whether he suffered harm from Defendant's FDCPA violation—the reinitiation of collection efforts with the December letter. Pl.'s Resp. 4, ECF No. 39.

simply develops the theory previously pleaded in his complaint that Defendant failed to *provide* debt verification.

The FDCPA does not state that actual damages is a prerequisite to recovery, and to effectuate the statute's broad remedial purposes, some circuits do not require that a consumer establish any actual damages to bring or recover on an FDCPA claim. *Stratton v. Portfolio Recovery Assocs., LLC*, 770 F.3d 443, 448–49 (6th Cir. 2014) (plaintiff bringing suit under the FDCPA "does not have to have suffered actual damages"); *Savino v. Comput. Credit, Inc.*, 164 F.3d 81, 86 (2d Cir. 1998) ("All that is required for an award of statutory damages is proof that the [FDCPA] was violated."); *Church v. Accretive Health, Inc.*, 654 F. App'x 990, 994 (11th Cir. 2016) (finding an alleged FDCPA violation sufficient to confer standing). The Fifth Circuit has not directly addressed whether a consumer bringing an FDCPA claim must establish actual damages to assert standing or recover damages, but it has recognized the FDCPA was intended to have a "broad remedial scope." *See Hamilton v. United Healthcare of La., Inc.*, 310 F.3d 385, 392 (5th Cir. 2002).

In *Spokeo* the Supreme Court clarified that in alleging a violation of a statute, a plaintiff must still establish a "concrete" injury, but it does not seem to require any showing of injury beyond that provided by the statute. *See Spokeo v. Robins*, 136 S. Ct. 1540, 1549 (2016) (clarifying that "the violation of a procedural right granted by statute can be sufficient in some circumstances to constitute injury in fact," in which case plaintiffs "need not allege any *additional* harm beyond the one Congress has identified") (emphasis in original). In fact, the Supreme Court in *Spokeo* pointed out that intangible injuries closely related to the harm the statute seeks to prevent are still concrete. *Id.* In evaluating FDCPA claims post-*Spokeo*, courts have found that an alleged FDCPA violation alone is sufficient to confer standing because it establishes the consumer suffered the type of harm Congress intended to prevent—abusive debt collection practices. *See Church*, 654

F. App'x at 994; *see also Linehan v. Allianceone Receivables Mgmt., Inc.*, No. C15-1012-JCC, 2016 WL 4765839, at *8 (W.D. Wash. Sept. 13, 2016) ("The goal of the FDCPA is to protect consumers from certain harmful practices; it logically follows that those practices would themselves constitute a concrete injury.").

The Court finds that for Plaintiff to assert standing, Plaintiff must have suffered an injury causally connected to Defendant's alleged wrongful conduct—namely, the reinitiation of collection efforts without properly verifying the debt. "When a debt collector receives timely notice of a disputed debt by a consumer, it has a choice: it may either provide the requested verification, or it may cease all collection activities." *Hunsinger*, 2014 WL 1462443, at *3 (citing *Bashore v. Resurgent Capital Servs., L.P.*, 452 F. App'x 522, 524 (5th Cir. 2011)). The inquiry for the Court is whether Plaintiff suffered harm from Defendant's alleged wrongful conduct—the reinitiation of collection efforts prior to mailing Plaintiff proper verification of the debt.

To establish standing, Plaintiff must show he suffered a "particularized" and "concrete" injury that is causally connected to Defendant's alleged wrongful conduct and redressable by a favorable court ruling. *Spokeo*, 136 S. Ct. at 1548. The Supreme Court recently clarified that a "particularized" injury is one suffered by the plaintiff, not common to an entire class of persons, and a "concrete" injury must "actually exist." *Id.* at 1548–49. Here, Plaintiff suffered a particularized injury because collection efforts were reinitiated against him specifically, not an entire class of persons. Plaintiff's alleged injury is also concrete because the harm he suffered from Defendant's reinitiation of collection efforts was not an abstract or mere procedural violation of the FDCPA. Ghanta Dep. 30–31, ECF No. 35-1 (Plaintiff testified he suffered damages from the reinitiation letter including "loss of time; anxiety; stress; humiliation"). The injury Plaintiff suffered was the abusive debt collection practice the FDCPA sought to prevent: the reinitiation of collection efforts without mailing Plaintiff proper verification of the debt. *Hunsinger*, 2014 WL 1462443, at *3.

Accordingly, the Court finds that Plaintiff's alleged FDCPA violation is sufficient to establish that he suffered injury from the reinitiation of collection efforts and grant standing to maintain suit.

B. Absent Debt Verification – Failure to Mail Claim

Because Plaintiff disputed his debt in writing within 30 days of Defendant's June 22, 2015 initial collection letter, Defendant was required under the FDCPA to cease collection efforts until it obtained verification of the debt and mailed a copy to Plaintiff. 15 U.S.C. § 1692g(b). Defendant does not dispute that it reinitiated collection efforts on December 14, 2015, but argues that its letter uploaded to the CFPB portal on November 9, 2015, constitutes sufficient debt verification. Def.'s Br. 11, ECF No. 35. Plaintiff argues that uploading to the CFPB portal doesn't constitute mailing. Pl.'s Mot. Summ. J. 16–17, ECF No. 32.

The FDCPA provides in relevant part:

> If the consumer notifies the debt collector in writing within . . . [thirty days] that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of the judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is *mailed to the consumer* by the debt collector.

15 U.S.C. § 1692g(b) (emphasis added). Defendant urges this Court to impose a contemporary view of the FDCPA and read "mailed" as a requirement to merely "send" verification of the debt

in any way practical. *See* Def.'s Br. 11–13, ECF No. 35. While modes of communication have certainly changed since the FDCPA was enacted in 1977, Congress alone possesses the power to amend the statute's requirements as this Court is not empowered to engage in interpretive updating. *Kimberly Hively v. Ivy Tech Cmty. Coll. of Ind.*, No. 15-1720, 2017 WL 1230393, at *17 (7th Cir. 2017) (Sykes, J.) (dissenting) ("We are not authorized to infuse the text with a new or unconventional meaning or to update it to respond to changed social, economic, or political conditions.") (quoting *Sandifer v. U.S. Steel Corp.*, 134 S. Ct. 870, 876 (2014) ("It is a fundamental canon of statutory construction that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning.")); *see also Spokeo*, 136 S. Ct. at 1547 ("In order to remain faithful to this tripartite structure, the power of the Federal Judiciary may not be permitted to intrude upon the powers given to the other branches). In fact, Congress has amended the FDCPA as recently as 2006, and did not change the debt collector's verification requirements under § 1692g(b).

Defendant argues it has complied with the FDCPA's purpose, but the Court must begin with the text of the statute, not its spirit, to determine what it requires. Section 1692g unambiguously requires the debt collector to send the consumer verification of the debt by mail. 15 U.S.C. § 1692g(b). Defendant's electronic upload of the portal letter falls outside the FDCPA's minimum requirement that the debt verification be "mailed" to the consumer.

This interpretation of the term mail is reinforced by the surrounding statutory language. Section 1692g employs more general language to describe the mode of communication between the debt collector and consumer at the initial communication stage (requiring only that the debt collector "*send* the consumer a written notice" within five days after the initial communication) and at the debt dispute stage (requiring only that the consumer "*notif[y]* the debt collector in writing" that the debt is disputed). 15 U.S.C. § 1692g(a),(b). But in describing the mode of communication regarding the debt verification, the statute requires that verification of the debt be "mailed" to the consumer. 15 U.S.C. § 1692g(b). When the text of a statute is plain and unambiguous, as is the FDCPA's requirement that the debt collector mail debt verification to the consumer, the Court must enforce the language according to its terms. *See Hardt v. Reliance Standard Life Ins. Co.*, 560 U.S. 242, 251 (2010).

Defendant pointed to several cases as examples of instances where courts found "efforts similar to Defendant's" (electronically uploading a letter to the CFPB portal) to be sufficient debt verification under the FDCPA. Def.'s Resp. 6–7, ECF No. 40. But none of those cited cases involved debt verification sent electronically, much less through the CFPB portal at issue in the present case. In fact, two of the three cited cases found the debt verification sufficient when it was *mailed* to the consumer, as required by the statute. *See Poulin v. The Thomas Agency*, 760 F. Supp. 2d 151, 161 (D. Maine 2011) (finding debt collector complied with verification requirement by "*mailing* verification of the debt to [consumer]") (emphasis added); *Rudek v. Frederick J. Hanna & Assocs., P.C.*, No. 1:08-CV-288, 2009 WL 385804, at *3 (E.D. Tenn. Feb. 17, 2009) (finding debt collector satisfied its obligation by "*mailing* a copy of the verification to the consumer") (emphasis added). The third case does not explicitly state the debt verification was mailed but involves verification that was "sent" to the consumer and included critical information that Defendant's portal letter lacked, such as the amount due and account number associated with the alleged debt. *Cuda & Assocs., LLC v. Yuchniuk*, No. CV095013066, 2012 WL 164435, at *4–5 (Conn. Super. Ct. Jan. 3, 2012). Defendant was unable to cite, and the Court is unaware of, a case finding the debt collector satisfied its statutory duty to mail the consumer verification of the debt by electronically uploading a letter to the CFPB portal.

The FDCPA is a strict liability statute and requires no proof of an intentional violation. *Eilert v. Turner,* No. H-13-3758, 2015 WL 51780801, at *2 (S.D. Tex. Sept. 4, 2015) (citing *Thompson v. Diversified Adjustment Serv., Inc.*, No. H-12-922, 2013 WL 3973976, at *4 (S.D. Tex. July 31, 2013)). While the FDCPA recognizes a "bona fide error" exception when violations were committed unintentionally despite procedures adopted to avoid such error, it is clear that Defendant's choice to electronically upload the alleged verification letter instead of mailing it to Plaintiff was intentional. 15 U.S.C. § 1692k(c) ("A debt collector may not be held liable in any action brought under this subchapter if the debt collector shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error."); *Owen v. I.C. Sys., Inc.*, 629 F.3d 1263, 1270–71 (11th Cir. 2011); *see* Def.'s App. 4, Ex. 1, Erickson Aff. ¶ 10, ECF No. 35-1 (ICR Senior Compliance Manager stating that Defendant uploaded the letter resuming collection efforts pursuant to "policies and procedures [] reasonably designed to prevent error in complying with the FDCPA"). The record demonstrates that Defendant's reinitiation of collection efforts against Plaintiff was intentional and did not result from a bona fide error.

Defendant claims that its use of the CFPB portal to verify the debt was justified because Plaintiff used the CFPB portal to make his second request for such verification, seeming to imply that Plaintiff waived his right to receive the requested debt verification by mail. *See* Def.'s Br. 11, ECF No. 35.[2] But a review of the portal letter makes clear that it was addressed to CFPB and intended to respond to CFPB's inquiry, not provide Plaintiff debt verification. *See* Def.'s App. 9, Ex. B, ("Portal Letter"), ECF No. 35-1 ("Dear Sir or Madam, . . . [a]fter careful review of your [CFPB's] inquiry and Mr. Ghanta's compliant, we have determined that Mr. Ghanta claims he did not receive a validation letter . . ." [sic]). The portal letter was addressed to CFPB and did not reference or include any contact information for Plaintiff. *Id.* Regardless, any waiver of Plaintiff's right to receive proper debt verification by mail would only be effective if Plaintiff understood, under the least sophisticated debtor standard, that he was waiving that right. *See Clark v. Capital Credit & Collection Servs., Inc.*, 460 F.3d 1162, 1171 (9th Cir. 2006). The Court finds no indication that Plaintiff knowingly waived the FDCPA's requirement to mail debt verification.

Defendant also argues that because Plaintiff "received" the portal letter, any FDCPA is a minor one that the Court should overlook. Def.'s Br. 9–10, ECF No. 35. But it is irrelevant whether Plaintiff actually received the debt verification because Defendant's statutory duty to mail Plaintiff debt verification would have been satisfied when the debt verification was placed in the mail with a proper address and sufficient postage, regardless of whether Plaintiff ultimately received it. *See Mahon v. Credit Bureau of Placer Cty. Inc.*, 171 F.3d 1197, 1201–02 (9th Cir. 1999) (rejecting the argument that communication between debt collector and consumer is not truly "sent" until "received" by consumer and applying the mailbox rule in presuming that

[2] Defendant's Brief explains that "Defendant sent the validation through the CFPB portal because Plaintiff had initiated contact through the portal." Def.'s Br. 11, ECF No. 35. But Plaintiff first disputed the debt, triggering Defendant's duty to mail verification on June 22, 2015 by sending an email to Defendant. Pl.'s Compl. 3–4, ECF No. 1; Def.'s App. 3, Ex. 1, Erickson Aff., ECF No. 35-1. Plaintiff's November 9, 2015 communication to Defendant through the CFPB portal was the second request for debt verification. Def.'s Br. 4, ECF No. 35.

communication is received shortly after proper and timely mailing). The Court's focus is on whether Defendant satisfied its statutory duty to mail Plaintiff verification of the debt before reinitiating collection efforts.

The Court finds that Defendant has failed to create a genuine issue of material fact as to whether it mailed Plaintiff debt verification before reinitiating collection efforts.

B. Insufficient Debt Verification – Failure to Provide Claim

Even if this Court were to find that Defendant's electronic debt verification addressed to CFPB satisfied the FDCPA's requirement that it be "mailed" to the consumer, the portal letter does not contain enough information to constitute debt verification.

The FDCPA does not define what constitutes sufficient debt verification, and the Fifth Circuit has not directly addressed the issue. Accordingly, verification will carry its ordinary meaning. *United States v. Santos*, 553 U.S. 507, 511 (2008). Verification is defined as an "acknowledgment" or "recognition of something as being factual." *See* Black's Law Dictionary (defining "verification" as "acknowledgment" and "acknowledgment" as "recognition of something as being factual") (10th ed. 2014); *see also* Webster's Unabridged Third New International Dictionary (1986) (defining "verification" as "the act or process of verifying or the state of being verified: the authentication of truth or accuracy by such means as facts, statements, citations, measurements, or attendant circumstances"). This Court finds that the dictionary definitions of verification shed limited light on the sufficiency or insufficiency of Defendant's portal letter. *See Mack v. Progressive Fin. Servs., Inc.*, No. 4:13-CV-544, 2015 WL 123742, at *3 (E.D. Tex. Jan. 8, 2015) (finding the dictionary definition of verification unhelpful and resorting to other circuit courts' interpretations of the statutory requirement); see *also Haddad v. Alexander, Zelmanski, Danner & Fioritto, PLLC*, 758 F.3d 777, 782 (6th Cir. 2014).

Circuit courts that have addressed the FDCPA's verification requirement found that it requires, at a minimum, enough information to allow the consumer to "sufficiently dispute the payment obligation." *Haddad*, 758 F.3d at 785. Debt verification under the FDCPA usually requires "an itemized accounting detailing the transactions in an account that have led to the debt" because it allows the consumer to determine if he or she actually owes the debt. *Haddad*, 758 F.3d at 777, 782. Some circuits have adopted a lower requirement for verification—requiring only that the debt collector confirm the amount being demanded is equivalent to the amount the creditor claims is owed. *Clark v. Capital Credit & Collection Servs., Inc.*, 460 F.3d 1162, 1173–74 (9th Cir. 2006) (quoting *Chaudhry v. Gallerizzo*, 174 F.3d 394, 406 (4th Cir. 1999)). But even under *Chaudhry*'s minimum standard for verification Defendant's portal letter fails because it contained no information for Plaintiff to determine if he had already paid the alleged debt or Defendant was attempting to collect from the wrong consumer. *See Chaudhry*, 174 F.3d at 406 (citing legislative history of verification provision that reveals it was intended to "eliminate the [recurring] problem of debt collectors dunning the wrong person or attempting to collect debts which the consumer has already paid"). Further, the debt collector in *Chaudhry* provided significantly more information than Defendant gave in the portal letter. *See id.* (finding verification sufficient that included a "running account of the debt amount, a description of every transaction, and the date on which the transaction occurred"). Defendant's portal letter did not indicate the amount of the debt, when the alleged debt accrued, or any description of the transaction resulting in the alleged debt. Def.'s App. 9, Portal Letter, ECF No. 35-1. The portal letter merely responded to the CFPB by reiterating the creditor's belief that Plaintiff "does in fact owe the balance," which does not provide enough information for Plaintiff to adequately dispute the debt. *Id.*

The verification letter in *Mack* also contained more information than Defendant's portal letter, and yet the district court in the Eastern District of Texas found it failed to sufficiently verify the disputed debt. *Mack*, 2015 WL 123742, at *4. In *Mack*, the debt collector sent a letter identifying the original and current creditor, the account number, reference number, and current balance of the debt. *Id.* at *1. But the attachment sent with the letter did not list the City of Dallas as the creditor. *Id.* at *1, *5 (finding the letter failed to sufficiently verify the debt under the *Haddad* standard but granting summary judgment for collector on a separate ground). The portal letter at issue here stated that the creditor, Emory University, confirmed "Mr. Ghanta does in fact owe the balance. Mr. Ghanta did not graduate and felt he should not have to pay [Emory]. He is responsible for the bill." Def.'s App. 9, Ex. B, ECF No. 35-1. The letter does not identify the debt amount or the date upon which it allegedly accrued. *See Haddad*, 758 F.3d at 786 ("verification . . . should provide the date and nature of the transaction that led to the debt"). The Court finds that without further details as to how and when the debt accrued, the portal letter fails to provide sufficient information for Plaintiff to adequately dispute the debt.

Finally, Defendant argues that even if the Court finds it violated the FDCPA, the violation was de minimis and should be ignored by the Court. Def.'s Br. 13–14, ECF No. 35. Defendant points to three cases outside the Fifth Circuit where a technical FDCPA violation was viewed as "de minimis" by the court. *Id.* (citing *Pearce v. Rapid Check Collection, Inc.*, 738 F. Supp. 334 (D.S.D. 1990); *Neill v. Bullseye Collection Agency, Inc.*, No. 08-5800 (JNE/FLN), 2009 WL 1386155 (D. Minn. May 14, 2009); *Hahn v. Triumph P'ships, LLC*, 557 F.3d 755 (2009)). But the cited cases are not controlling and involve situations inapplicable to the facts at issue here—technical violations that were completely inconsequential for the consumer or misrepresentations that were more favorable to the consumer than the truth. *See Neill*, 2009 WL 1386155, at *2 (mislabeling the third notice as the "second notice" was undoubtedly immaterial); *Pearce*, 738 F. Supp. at 338 (direct communication to consumer after communication with consumer's attorney was a de minimis violation of the FDCPA's bar on third-party communication); *Hahn*, 577 F.3d at 758 (claiming an amount due less than the actual amount due was a de minimis violation). Defendant's failure to provide sufficient debt verification and failure to send it through the statutorily prescribed means is not a de minimis violation.

The Court finds that Defendant has failed to create a genuine issue of material fact as to whether the portal letter contained enough information to constitute debt verification.

IV. CONCLUSION

Based on the foregoing, the Court finds that Plaintiff's Motion for Summary Judgment (ECF No. 32) should be and is hereby **GRANTED**. Defendant's Motion for Summary Judgment (ECF No. 34) should be and is hereby **DENIED**. The Court defers a determination of actual damages, if any, for the jury and will award reasonable statutory damages and attorney's fees and costs upon motion by a party.

SO ORDERED on this **18th day** of **April, 2017.**

Reed O'Connor
UNITED STATES DISTRICT JUDGE